

## CHAPTER 13

### CAMPAIGN REPORTS AND FINANCES

#### SUBCHAPTER I

#### GENERAL PROVISIONS

##### **21A § 1001. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.

**2. Election.** "Election" means any primary, general or special election for state, county or municipal offices as defined in Title 30-A, section 2502, subsection 1.

**3. Person.** "Person" means an individual, committee, firm, partnership, corporation, association or organization.

##### **21A § 1002. Meetings of commission**

**1. Meeting schedule.** The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held. In the 28 days preceding an election, the commission shall meet in Augusta within 2 business days of the filing of any complaint with the commission, unless the complainant and respondent agree otherwise. Regardless of whether the complainant or respondent agree, the commission may defer until after the election considering complaints determined by the chair to involve allegations of minor violations of this chapter or chapter 14 such as disclaimer statements omitted from campaign signs or transactions of less than \$100 omitted from campaign finance reports.

**2. Telephone meetings.** The commission may hold meetings over the telephone if necessary, as long as the commission provides notice to all affected parties in accordance with the rules of the commission and the commission's office remains open for attendance by complainants, witnesses, the press and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted:

A. During the 28 days prior to an election when the commission is required to meet within 2 business days of the filing of any complaint with the commission; or

B. To address procedural or logistical issues before a monthly meeting, such as the scheduling of meetings, deadlines for parties' submission of written materials, setting of meeting agenda, requests to postpone or reschedule agenda items, issuing subpoenas for documents or witnesses and recusal of commission members.

**3. Other meetings.** The commission shall meet at other times on the call of the Secretary of State, the President of the Senate, the Speaker of the House or the chair or a majority of the members of the commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

**4. Office hours before election.** The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election.

## **21A § 1003. Investigations by commission**

**1. Investigations.** The commission may undertake audits and investigations to determine the facts concerning the registration of a candidate, treasurer, party committee, political action committee, ballot question committee or other political committee and contributions by or to and expenditures by a person, candidate, treasurer, party committee, political action committee, ballot question committee or other political committee. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or entity that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.

**2. Investigations requested.** A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

### **2-A. Confidentiality. (REPEALED)**

**3. State Auditor.** The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and has all necessary powers to carry out these responsibilities.

**3-A. Confidential records.** Investigative working papers of the commission are confidential and may not be disclosed to any person except the members and staff of the commission, the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an investigation or audit:

- A. Financial information not normally available to the public;
- B. Information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's authorized committee, that if disclosed, would reveal sensitive political or campaign information;

- C. Information or records subject to a privilege against discovery or use as evidence; and
- D. Intra-agency or interagency communications related to an audit or investigation.

The commission may disclose investigative working papers, except for the information or records subject to a privilege against discovery or use as evidence, in a final audit or investigation report or determination if the information or record is materially relevant to a finding of fact or violation.

**4. Attorney General.** Upon the request of the commission, the Attorney General shall aid in any investigation, provide advice, examine any witnesses before the commission or otherwise assist the commission in the performance of its duties. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.

## **21A § 1004. Violations**

The violation of any of the following subsections is a Class E crime.

**1. Contributions and expenditures.** A person, candidate, treasurer, political committee or political action committee may not knowingly make or accept any contribution or make any expenditure in violation of this chapter.

**2. False statements.** No person, candidate, treasurer or political action committee may make a false statement in any report required by this chapter.

**3. Contributions in another's name.** No person may make a contribution in the name of another person or knowingly permit his name to be used to accomplish such a contribution, and no person may knowingly accept a contribution made by one person in the name of another person.

**4. Registration; political action committees.** No political action committee required to be registered under section 1053 may operate in this State unless it is so registered.

## **21-A § 1004-A. Penalties**

The commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter.

**1. Late campaign finance report.** A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than \$100.

**2. Contribution in excess of limitations.** A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.

**3. Contribution in name of another person.** A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed \$5,000.

**4. Substantial misreporting.** A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed \$5,000.

**5. Material false statements.** A person that makes a material false statement or that makes a statement that includes a material misrepresentation in a document that is required to be submitted to the commission, or that is submitted in response to a request by the commission, may be assessed a penalty not to exceed \$5,000.

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure Rule 80C.

Penalties assessed pursuant to this section that have not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

#### **21-A § 1004-B. Enforcement of penalties assessed by the commission**

The commission staff shall collect the full amount of any penalty and the return of Maine Clean Election Act funds required by the commission to be returned for a violation of the statutes or rules administered by the commission and has all necessary powers to carry out these duties. Failure to pay the full amount of any penalty assessed by the commission or return of Maine Clean Election Act funds is a civil violation by the candidate, treasurer, party committee, political action committee or other person. Thirty days after issuing the notice of penalty or order for the return of funds, the commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty or to return Maine Clean Election Act funds unless the commission has provided an extended deadline for payment. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty or order for the return of Maine Clean Election Act funds. This action must be brought in the Superior Court for Kennebec County or the District Court, 7<sup>th</sup> District, Division of Southern Kennebec.

#### **21-A § 1005 Restrictions on commercial use of contributor information**

Information concerning contributors contained in campaign finance reports filed by candidates, political action committees and party committees and reports filed under section 1056-B may not be used for any commercial purpose, including, but not limited to, the sales and marketing of products and services, or for solicitations of any kind not directly related to activities of a political party, so-called “get out the vote” efforts or activities directly related to a campaign as defined in section 1052. Any person obtaining contributor information from the reports is prohibited from selling or distributing it to others to use for commercial purposes and also is prohibited from making publicly available the mailing addresses of contributors. This section does not prohibit a political party, party committee, candidate committee, political action committee or any other organization that has obtained contributor information from the commission from providing access to such information to its members for purposes directly

related to party activities, so-called “get out the vote” efforts or a campaign as defined in section 1052. A person who violates this section is subject to a fine of up to \$5,000. A person who knowingly violates this section commits a Class E crime.